IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

WA.No. 121 of 2007()

AGAINST THE JUDGEMENT IN WPC.26044/2006 Dated 06/10/2006
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APPELLANTS: RESPONDENTS 3 & 4
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1. THE KERALA STATE POLLUTION CONTROL BOARD, PATTOM, THIRUVANANTHAPURAM REPRESENTED BY THE MEMBER SECRETARY.

2. THE SENIOR ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD, DISRICT OFFICE, ERNAKULAM.

BY ADV. SRI.M.K.CHANDRA MOHANDAS,SC,POLL.C.BOAR

RESPONDENTS: RESPONDENTS 1 & 2 & PETITIONER
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1. STATE OF KERALA REPRESENTED BY THE SECRETARY, MINISTRY OF HEALTH, SECRETARIAT, TRIVANDRUM.

2. THE CORPORATION OF COCHIN REPRESENTED BY THE SECRETARY, ERNAKULAM.

3. MRS.GEETHA MOHAN, W/O MOHAN, GEETHA INDUSTRIES, CHALIKKAVATTOM, VENNALA, KOCHI.

R2 BY ADV. SRI.K.ANAND, SC, COCHIN CORPN.
BY ADV.SRI.RAMESH BABU
R1 BY SR.GOVERNMENT PLEADER SMT.K.MEERA
R3 BY ADV.SRI.VARGHESE C.KURIAKOSE

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 02/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN, Ag.C.J. &
M.N.KRISHNAN, J.

W.A.No.121 of 2007

Dated, this the 2nd day of March, 2007

JUDGMENT

Radhakrishnan, Ag.C.J.

This matter was heard by us on 26.2.2007 and on the request made by the learned counsel for the third respondent it is posted today. We have heard counsel on either side.

2. The writ petition was preferred by the third respondent herein seeking a writ of mandamus directing the second respondent Corporation to immediately issue the consent required for running the two SSI units by name, Jai Hind Metal Industries and Geetha Industries on the basis of the inspection report given based on Exts.P16 and P17 and P20 notices and also issue the consequential reliefs. When the writ petition came up before the learned Single Judge it was stated by the learned Standing Counsel for the 4th respondent that as per the direction issued by this Court in Ext.P9 judgment the 4th respondent had issued certain directions to give sanction to function the petitioner's unit. Learned Standing Counsel also submitted that

since the conditions had already been complied with by the petitioner, the 4th respondent had given consent to function the unit of the petitioner. The Kerala State Pollution Control Board along with its Senior Environmental Engineer filed R.P.No.904 of 2006 to review that order. However, the learned Single judge dismissed the review petition stating that no ground was made out for reviewing the order already passed and that the order was passed on the submission made by the Standing Counsel. The Pollution Control Board and its Senior Environmental Engineer have filed this writ appeal challenging the judgment of the learned Single Judge dated 6th October, 2006.

3. Learned counsel appearing for the Pollution Control Board submitted that the petitioner was served with Exts.P10 and P11 orders refusing consent to operate the units. The reason for the same have also been narrated in the said orders. It is also stated in those orders that the issue of consent would be reconsidered according to its merits on the petitioner complying with the defects pointed out in those orders. Later the petitioner had sent Exts.P12 and P13 letters stating that she had already rectified the defects and that necessary amounts were also

deposited as per Rules. However, the Standing Counsel appearing for the Pollution Control Board submitted that later the petitioner was served with Ext.P17 notice of inspection dated 25.8.2006. He also stated that though inspection was conducted, no consent letter was given to the petitioner's units. Still another inspection was conducted on 27.2.2007 by a team officers consisting of Member Secretary and two others and based on the report the Board is yet to pass final orders.

4. We find that the Pollution Control Board is yet to pass final orders on Exts.P12 and P13 letters sent by the petitioner stating that she had rectified the defects pointed out in the earlier notices. Standing Counsel for the Board submitted that an inspection was conducted on 27.2.2007 with notice to the petitioner. However, counsel appearing for the petitioner is unaware of that statement made by the Standing Counsel for the Board.

5. Taking into consideration the entire facts and circumstances of the case we feel that it will be appropriate that the writ petition be disposed of with a direction to the Pollution Control Board to pass orders on Exts.P12 and P13 in accordance

with law and making it clear that if the Board proposes to rely upon any report adverse to the petitioner, copy of the same be made available to the petitioner and she shall be given an opportunity of being heard as well. It is also open to the petitioner to file objection to the report so made available to her. Final orders shall be passed within a period of one month from the date of receipt of a copy of this judgment. The judgment of the learned Single Judge is accordingly set aside. We make it clear that we have not expressed any final opinion on the merits of the case.

The writ appeal is disposed of as above.

K.S.RADHAKRISHNAN,
Ag.CHIEF JUSTICE.

M.N.KRISHNAN,
JUDGE.

vns